

SIL.9027

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

§
WILLIE BRENHAM, §
§
Plaintiff, §
§
v. § **Civil Action No. 3:17-cv-3116**
§
TOMISLAV TRSTENJAK and AAA
FREIGHT, INC., §
§
Defendants. §

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COME NOW, **TOMISLAV TRSTENJAK and AAA FREIGHT, INC.**, Defendants in the above-referenced matter, respectfully file the following notice of removal under 20 U.S.C. § 1332(a).

I.
INTRODUCTION

1. Plaintiff is an individual citizen and resident of the State of Texas.
2. Defendant **AAA FREIGHT, INC.** is a foreign corporation duly registered and incorporated in the State of Illinois and maintains its principal place of business within the State of Illinois.
3. Defendant **TOMISLAV TRSTENJAK** is an individual citizen and resident of the State of Florida.
4. Defendant **TOMISLAV TRSTENJAK** has not been served with suit. Defendant **AAA FREIGHT, INC.** was served with suit on or about August 30, 2017, and consents to removal to federal court. Defendants, therefore, have filed this Notice of Removal within the

thirty-day time period and the later-served defendant rule. 28 U.S.C. § 1446(b)(1), (b)(2)(C).

5. Plaintiff has sued Defendants asserting negligence in County Court at Law No. 1, Dallas County, Texas, Cause No. CC-17-05203-A, styled *Willie Brenham v. Tomislav Trstenjak and AAA Freight, Inc.* The suit filed against Defendants is a civil action seeking damages for alleged personal injury arising out of an alleged motor vehicle accident that allegedly occurred on January 12, 2017 on Interstate 35 in Dallas County, Texas.

II.
BASIS FOR REMOVAL

6. Removal is proper under 28 U.S.C. § 1332(a) because Plaintiff's suit is a civil action in which this Court has original jurisdiction over the parties based on complete diversity between Plaintiff and Defendants. This action is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441(b).

7. Both at the time of the filing of Plaintiff's Original Petition and at the time of the filing of this Notice of Removal, Plaintiff was, is, and continuously has been an individual citizen of the State of Texas with his place of residence in the State of Texas. Both at the time of filing of Plaintiff's Original Petition and at the time of the filing of this Notice of Removal, Defendant **TOMISLAV TRSTENJAK** was, is, and continuously has been an individual citizen of the State of Florida with his place of residence in the State of Florida. Both at the time of filing of Plaintiff's Original Petition and at the time of the filing of this Notice of Removal, Defendant **AAA FREIGHT, INC.** was and is a corporation organized and existing under the laws of the State of Illinois and having its principal place of business in the State of Illinois. Thus, Defendant is a corporate citizen of the State of Illinois.

A. Amount in Controversy

8. The amount in controversy in this matter, exclusive of interest and costs, exceeds the sum of value of \$75,000 as required by 28 U.S.C. §1332(a). As set forth on page 1 of **DEFENDANTS' NOTICE OF REMOVAL**

Plaintiff's Original Petition, Plaintiff has expressly alleged that he "seeks monetary relief in excess of \$100,000.00, but no more than \$200,000.00" in this action.

B. Removal is Timely

9. This Court has jurisdiction and this action is properly removable based upon diversity of citizenship under 28 U.S.C. §1332, et seq. Because the notice of removal was filed within thirty (30) days after the receipt of a copy of the initial pleading setting forth the claim for relief, this removal is proper and timely. 28 U.S.C. § 1446(b), (b)(2)(C).

C. Required Form of Documents

10. Pursuant to Local Rule 81.1, Defendants have attached (1) an index of all attached documents, (2) a copy of the Docket Sheet in the State Court action, and (3) all pleadings (excluding discovery material) filed in the State Court action, Cause No. CC-17-05203-A, in the County Court at Law No. 1, Dallas County, Texas.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Defendants pray that the action now pending in the County Court at Law No. 1 of Dallas County, Texas be removed to this, the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

FEE, SMITH, SHARP & VITULLO, L.L.P

/s/ Randall W. Miller

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 13, 2017, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court, Northern District of Texas – Dallas Division, using the electronic case filing system of the Court. The electronic filing system sent a “Notice of Electronic Filing” to the following attorney of record who has consented in writing to accept this Notice as service of this document by electronic means as follows:

Via E-Service:
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/s/ Randall W. Miller
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